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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,070	01/14/2004	Shinji Tsuge	230980-0261	5353
23392	7590	08/16/2006	EXAMINER	
FOLEY & LARDNER 2029 CENTURY PARK EAST SUITE 3500 LOS ANGELES, CA 90067			WARREN, DAVID S	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,070

Applicant(s)

TSUGE ET AL.

Examiner

David S. Warren

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/6/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Machover et al. (5,650,583). Regarding claims 1, 5, 13, and 21, Machover discloses the use of performance pattern storage means and pattern sequence storage means (col. 2, lines 30 – 34 and col. 3, lines 1 – 5), a signal processing means for producing tones corresponding to the patterns of the sequence (col. 3, lines 13 – 16), an operator for use during performance of a pattern sequence to generate events representing addition (col. 11, paragraphs 5 – 7) and deletion (fig. 10B) of tones from the pattern sequence, creation means for creating a new performance pattern (i.e., Machover creates a “new” pattern; col. 12, first paragraph), and a modification means (col. 11, lines 54 – 56). Machover does not explicitly teach the use of a modification means to “substitute the identifier of the new performance pattern for the identifier of the performance pattern form which it was created in the pattern sequence.” However, Machover does disclose that “the current pattern having been changed or added with a new pattern can be stored into the assign memory 2, and then the pattern stored in the

assign memory 2 can be read out at any time by actuating any of the keys in the pattern assign area on the keyboard 1A” (col. 12, first paragraph). The Examiner maintains that the method (or system) by which Machover associates the modified pattern with the keys is functionally equivalent to an “identifier.” In other words, the activation of a key must, in some way, “identify” the corresponding pattern. It would have been obvious to one of ordinary skill in the art to include an identifier substituting means in the teachings of Machover to obtain a pattern editing (i.e., adding or deleting events) system having a way to identify each modified pattern. The motivation for making this modification would be to provide Machover with a way for users to easily recall (from storage) each modified pattern. Regarding claims 2 and 3, the addition/deletion capabilities of Machover have been discussed supra. Regarding claim 4, rhythm accompaniment is essentially the timings of note-on events – so the addition/deletion would necessarily require the timing of events. Regarding claims 6, 8, 10, 14, 16, and 18, the limitations have been discussed supra. Regarding claims 11, 12, 19 and 20, Machover discloses the use of adding/deleting drum sounds (i.e., musical notes) – see col. 20, paragraphs 2 – 6. Regarding claims 7, 9, 15 and 17, Machover discloses the use of particular notes (col. 17, lines 42 – 47).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

Art Unit: 2837

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2837. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dsw


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER